

## § 1427.1109

## 7 CFR Ch. XIV (1–1–04 Edition)

received according to announced application instructions shall not be included in the total payment quantity of cottonseed. The total payment quantity of cottonseed (ton-basis) shall be calculated by multiplying:

(a) The weight of cotton lint (ton-basis) for which payment is requested by all applicants, as approved by CCC, by

(b) The national Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC for the 5 years preceding the crop year for which the cottonseed payments are provided.

### § 1427.1109 Payment rate.

The payment rate (dollars per ton) for the purpose of calculating payments made available in accordance with this subpart shall be determined by CCC by dividing the total available program funds by the total eligible payment quantity of cottonseed unless the calculation would provide an excess rate of payment in which case an alternative method will be used as determined appropriate by CCC.

### § 1427.1110 Payment calculation and form.

(a) Payments in accordance with this subpart shall be determined for individual applicants by multiplying:

(1) The payment rate, determined in accordance with § 1427.1109, by

(2) The eligible payment quantity of the applicant, determined in accordance with § 1427.1107 and other provisions of this subpart.

(b) After receipt of the application for payment, CCC will issue payments to the applicant by electronic funds transfer to the applicant's account except that applicants may request that payment be made by mailed check.

### § 1427.1111 Liability of first handler.

(a) If any person makes any erroneous or fraudulent representation in obtaining a cottonseed payment under this part, or in connection with such a payment engages in a scheme or device that tends to defeat the purposes of this program, the person shall be liable to CCC for the amount of the payment and interest on such payment as determined by CCC. Such remedy will be in

addition to whatever additional remedies may be allowed by law.

(b) If more than one person executes a program payment application with CCC and payments are made thereunder, each such person shall be jointly and severally liable for any violation of the terms and conditions for any payment made to anyone under that application or for any refund due from any person signing that application. Such liability shall remain until payment in full is made of any such refund and its related charges.

(c) If a person receives a program payment in excess of the amount authorized by this subpart, that person shall refund to CCC an amount equal to the excess payment, plus interest thereon, as determined by CCC.

(d) From the date of the payment application until the earlier of 3 years after the date of the application or July 31, 2006, the applicant shall keep records, including records supporting the quantity of cottonseed for which payment was requested, and furnish such information and reports relating to the application to CCC as requested. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments received, plus interest thereon, as determined by CCC. In the event of a controversy concerning payments or questions involving the payments, records must be kept for such longer period as may be specified by CCC until such controversy is resolved.

## Subpart G—Extra Long Staple (ELS) Cotton Competitiveness Payment Program

SOURCE: 67 FR 64459, Oct. 18, 2002, unless otherwise noted.

### § 1427.1200 Applicability.

(a) These regulations set forth the terms and conditions under which CCC shall make payments, in the form of

commodity certificates or cash, to eligible domestic users and exporters of extra long staple (ELS) cotton who have entered into an ELS Cotton Domestic User/Exporter Agreement with CCC to participate in the ELS cotton competitiveness payment program under section 136A(c) of the Federal Agriculture Improvement and Reform Act of 1996 and section 1208 of the Farm Security and Rural Investment Act of 2002.

(b) During the effective period of these regulations, CCC may issue marketing certificates or cash payments to domestic users and exporters, at the option of the recipient under this subpart, in any week following a consecutive 4-week period in which:

(1) The lowest adjusted Friday through Thursday average price quotation for foreign growths (LFQ), as quoted for ELS cotton, delivered C.I.F. (cost, insurance and freight) Northern Europe, is less than the Friday through Thursday adjusted average domestic spot price quotation for base quality U.S. Pima cotton, as determined by the Secretary for purposes of administering the ELS Cotton Competitiveness Payment Program, uncompressed, F.O.B. warehouse; and

(2) The LFQ, determined under § 1427.1207, is less than 134 percent of the current crop year loan level for the base quality U.S. Pima cotton as determined by the Secretary.

(c) Additional terms and conditions may be in the ELS Cotton Domestic User/Exporter Agreement, which the domestic user or exporter must execute in order to receive such payments.

(d) CCC shall prescribe the forms to be used in administering the ELS cotton competitiveness payment program.

#### § 1427.1201 [Reserved]

#### § 1427.1202 Definitions.

*Consumption* means, the use of eligible ELS cotton by a domestic user in the manufacture in the United States of ELS cotton products.

*Cotton product* means any product containing cotton fibers that result from the use of an eligible bale of ELS cotton in manufacturing.

*Current shipment price* means, during the period in which two daily price

quotations are available for the LFQ for the foreign growth, quoted C.I.F. northern Europe, the price quotation for cotton for shipment no later than August/September of the current calendar year.

*Forward shipment price* means, during the period in which two daily price quotations are available for the LFQ for foreign growths, quoted C.I.F. northern Europe, the price quotation for cotton for shipment no earlier than October/November of the current calendar year.

*LFQ* means, during the period in which only one daily price quotation is available for the growth, the lowest average for the preceding Friday through Thursday week of the price quotations for foreign growths of ELS cotton, quoted cost, insurance, and freight C.I.F. northern Europe, after each respective average is adjusted for quality differences between the respective foreign growth and U.S. Pima, of the base quality, provided that the lowest adjusted quotation becomes the LFQ after it is further adjusted to reflect the estimated cost of transportation between an average U.S. location and northern Europe.

(1) *Current LFQ* means the preceding Friday through Thursday average of the current shipment prices for the lowest adjusted foreign growth, C.I.F. northern Europe.

(2) *Forward LFQ* means the preceding Friday through Thursday average of the forward shipment prices for the lowest adjusted foreign growth, quoted C.I.F. northern Europe.

*Spot price* means the Friday through Thursday weekly average of the domestic spot prices reported by the Agricultural Marketing Service, USDA, for base quality U.S. Pima, uncompressed, F.O.B. warehouse, for the San Joaquin and Desert Southwest markets. When both San Joaquin Valley and Desert Southwest spot quotations are available, the U.S. quotation will be a weighted average of the two quotations, as determined by the Secretary. If only one quotation is available, that quotation will be used.